

## **REMARKS**

### **REMARKS AND RESPONSE TO ADVISORY ACTION OF FEBRUARY 18, 2004**

In response to the Advisory Action of February 18, 2004, Applicant files the following broadening amendments. The Advisory Action opines that the proposed After Final Amendment including the language that the extending element is extends “substantially perpendicular to a point of a seat back” “raises issues of new matter.” Nothing could be farther from the truth. However, Applicant has further amended the claim to broaden it so that it reads that the extending element extends “outward toward a seat occupant.” This language includes and broadens the scope of the previously proposed “substantially perpendicular” language. Incorporation of the new language is supported in the original application at page 2, lines 11-12, page 4, lines 13-16, and in the figures.

The limitation that the actuating tractive force be “substantially colinear with said sliding travel” of the encapsulated end of the extending element is amply supported in figures 2 and 3, and on page 4 lines 17-23.

These claim amendments structurally recite limitations particularly pointing out and distinctly claiming the patentable novelty of the invention, including its features that remain undisclosed by the previously recited prior art. In regards to the latter, Applicant appends the previously filed remarks in response to the final office action.

**REMARKS FILED WITH THE RESPONSE TO FINAL OFFICE ACTION OF  
NOVEMBER 25, 2003**

The above amendments merely clarify the scope of the originally submitted claims, and do not narrow them. The reason that these amendments do not narrow in response to the Office Action's recitation of the Schwartz references (U.S. 3,106,423 and U.S. 4,465,317) is that application of these references under 35 U.S.C. 102 to the original and pending claims of the present application has always been a non sequitur. The Schwartz references do not apply because the Schwartz devices make two separate and distinct movements. The pending claims are to a device that makes only one movement. The argument that the Schwartz references anticipate necessarily commingles separate structural elements in those references that do not work in unison. Each movement of the Schwartz device is structurally and functionally irrelevant to actuation of the other movement. Both Schwartz devices enable vertical adjustment by movement of the entire apparatus along the slot (see, reference number 11 in the '423 reference and number 12 in the '317 reference). The apparatus recited by the presently pending claims only makes one movement, and that movement does not enable vertical adjustment.

Separately and distinctly from their vertical movement, the Schwartz devices are also capable of horizontal movement toward and away from a seat occupant. In both references, this second movement is not achieved by sliding any component of the apparatus up and down along slots 11 or 12. In the Schwartz references, horizontal movement of the lumbar support is achieved only through an outward pressure force exerted by screwing a pin (reference numeral 12 in the '423 reference and reference numeral 14 in the '317 reference). In both the Schwartz references, no movement of any part of the apparatus vertically along the slots 11 and 12 causes any horizontal movement of the lumbar support. Conversely, horizontal movement of the lumbar

support in both the Schwartz references is totally independent of slots 11 and 12, and does not require any vertical movement along them.

The reason the presently pending claims are not anticipated by Schwartz is that the horizontal movement recited in claim 3 is achieved by the sliding travel of an arcuate encapsulated end of an extending member in an arcuate channel of the housing. This static structural novelty of the original claims over the Schwartz references is clarified by the amendment which amplifies the previously recited structure of the same scope, that is: the sliding travel of the extending element in the arcuate housing causes a horizontal (“perpendicular to a plane of the seat back”) movement of the pressure surface end of the extending element. The additional clarifying amendment particularly points out and distinctly claims how the functional operation is novel over the Schwartz references. It recites that the outward movement of the extending element is by mediation of sliding travel that is vertical, i.e., substantially colinear between the channel and the arcuate encapsulated end of the extending element.

More particularly, claim 3 has always recited an arcuate channel. The Office Action cites slots 11 and 12 as anticipating this claim limitation. Slots 11 and 12 are not arcuate. They are merely straight slots cut into a flat metal plate.

The housing limitation of claim 3 has always recited at least one guide boss. The structural elements of the Schwartz limitations, slots 11 and 12 recited by the Office Action as anticipatory of the housing and channel in the pending claims, do not disclose any guide bosses.

The actuation force in both Schwartz references is by pressure, not traction. That is, by screwing the actuator (a manual handle 16 in the ‘423 reference and 20, 33 in the ‘317 reference) the pins 12 and 14 *push* the lumbar support in a horizontal direction of the seat occupant. All pending claims have always recited that the actuating force of the present invention is tractive.

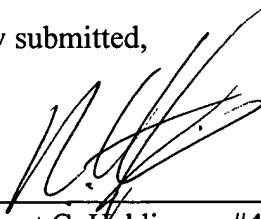
That is, the cable, pin or other traction element *pulls* horizontally into its supporting extended position. The pushing pin of Schwarz is not “tractive”, and cannot anticipate that limitation.

Finally, the Schwartz references clearly extend the lumbar support pressure surface horizontally by applying a force that is also horizontal. The structural and functional novelty of the present invention over the Schwartz references that has always been recited by the pending claims is now clarified by the additional language reciting that the tractive force be applied in a direction “substantially colinear with the sliding travel of the arcuate encapsulated end of the extending element along the arcuate channel.” That is, both the arcuate channel and the arcuate end of the extending element are oriented substantially along the plane of the seat back. The tractive force that actuates the mechanism is also substantially along the plane of the seat back. The recitation of both structure and operation in the pending claims can in no way be confused with or anticipated by the clearly orthogonal orientation of the actuating pin recited in both Schwartz references.

### ***CONCLUSION***

The grounds of rejection having been overcome or rendered moot, prompt and favorable consideration of all claims is respectfully requested.

Respectfully submitted,



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